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Timothy H. Heaton

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EXAMINER

SHRESTHA, BIJENDRA K

ART UNIT

PAPER NUMBER

3691

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/661,763	Applicant(s) HEATON, TIMOTHY H.	
	Examiner BIJENDRA K. SHRESTHA	Art Unit 3691	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 July 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-11, 13 and 16-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-11, 13, and 16-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claims 1-16 are presented for examination. Applicant filed an amendment on 07/09/2008 amending claims 1-5, 8-11 and 16, canceling claims 6-7, 12 and 14-15, and adding new claims 17-25. After careful consideration of applicant's arguments and amendments, new grounds of rejections of claims necessitated by Applicant's amendment are established in the instant application as set forth in detail below.

Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Finkelstein et al., U.S. Pub No. 2001/0037284 (reference A in attached PTO-892).

3. As per claim 1, Finkelstein et al. teach a method comprising the steps of:

displaying to a participant on a display screen device a first graphical interface that comprises:

(i) information on at least one related to a financial instrument (see Fig. 3, paragraph [0110]; where dealer displays financial instruments Agency Overnight, and US Treasury Overnight);

(ii) a selectable tab associated with the at least one financial instrument , wherein a selection of the selectable tab by the participant causes a second graphical interface to be displayed to the participant, the second graphical interface comprising price information for at least a first forward position contract for the financial instrument, wherein the first forward contract has a specified settlement date and wherein the price information for the first forward contract comprises at least one price at which the financial instrument may be transacted at the specified settlement date (see Fig. 4, paragraph [0110] and [0073]; where dealer can select either of two financial instrument and details corresponding repurchase agreement is displayed in second graphical user interface with details such as term, rate, start date and end date)

receiving from the participant a selection of selectable tab (see Fig. 4; paragraph [0010]; where investor posts and negotiate with repurchase agreement with dealer); and
based at least in part on receiving the selection of the selectable tab:

receiving from a Repurchase desk at least one price at which the financial instrument may be transacted at the specified settlement date (see Fig. 3; where dealer post settlement dates of Agency securities O/N (1), 1WK (7) and 2Wk (14); Examiner notes Repurchase Desk is intermediary between an investor and the dealer or seller);

displaying to the participant the second graphical interface, including first forward position contract, wherein the displayed price information for the first forward contract comprises the at least one price obtained from the Repurchase desk (see Fig. 3; where rate (price) for repurchase agreement is displayed by the dealer).

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4. As per claim 2, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, wherein

the information on the financial instrument comprises at least one trade price at which the financial instrument may be settled at a next day (see Fig. 3; where rate for term for O/N (1) is 3.50%).

5. As per claim 3, Finkelstein et al. teach claim 2 as described above. Finkelstein et al. further teach the method, wherein

the information on the financial instrument further comprises at least one trade price at which the financial instrument may be immediately settled (Examiner notes that cash transaction can be settled immediately).

6. As per claim 4, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method comprising the step of:

displaying to the participant at least one trade price at which the financial instrument may be immediately settled wherein the at least one trade price is determined from the at least one price obtained from the Repurchase desk (see Fig. 3; where rate (price) for different contract to be settled is displayed; Examiner notes cash settled contract can be displayed accordingly).

7. As per claim 5, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, wherein

the financial instrument comprises an interest-rate related instrument (Examiner notes treasury and agency securities are interest-rate related securities).

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8. As per claim 8, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, wherein the participant, further comprises price information for at least a second forward contract for the financial instrument:

wherein the second forward contract has a specified settlement date different from the settlement date of the first forward contract (see Fig. 3, Dealer Summary; Start Date, End Date; where three repurchase agreement (forward contract) with three different settlement dates are displayed); and

wherein the price information for the at least second forward contract is determined from the at least one price obtained from the Repurchase desk (see Fig. 3, Dealer Summary, Rate; where dealer or repurchase desk provides rate (price) for repurchase agreement).

Claim Rejections - 35 USC § 103

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 9-11,13, and16-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Finkelstein et al., U.S. Pub No. 2001/0037284 (reference A in attached PTO-892) in view of Dwin , U.S. pub No. 2004/0030638 (reference B in attached PTO-892).

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11. As per claim 9, Finkelstein et al. teach a method comprising the steps of:

causing a display device to display to a participant information on at least one financial instrument (see Fig. 3);

receiving from the participant a request to obtain price information for at least one forward contract for the financial instrument (see Fig. 4);

wherein the first forward contract has a specified settlement date and herein the price information for the first forward contract comprises at least one price at which the financial instrument may be transacted at the specified settlement date; and based at least in part on the request received from the participant, causing the display device to display to the participant the price information determined for the first forward contract (see Fig. 3 and 4; paragraph [0110]; where dealer and investors negotiate for repurchase agreement as displayed in Fig. 3 and 4).

Finkelstein et al. do not teach obtaining from a Repurchase desk a cost of borrowing the financial instrument for a particular period of time; based as least in part on the cost obtained from the Repurchase desk, determining price information for at least a first forward contract for the financial instrument.

Dwin teaches obtaining from a Repurchase desk a cost of borrowing the financial instrument for a particular period of time; based as least in part on the cost obtained from the Repurchase desk, determining price information for at least a first forward contract for the financial instrument (Dwin; Fig. 1-4; paragraph [0030] and [0032]).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include obtaining from a Repurchase desk a cost of borrowing

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the financial instrument for a particular period of time; based as least in part on the cost obtained from the Repurchase desk, determining price information for at least a first forward contract for the financial instrument of Finkelstein et al. because Dwin teaches including above features would enable to provide efficient form of financing by improving returns on capital and returns on equity (Dwin, paragraph [0004]).

12. As per claim 10, Finkelstein et al. teach claim 9 as described above. Claim 10 is rejected under same rational as claim 2 described above.

13. As per claim 11, Finkelstein et al. teach claim 10 as described above. Claim 10 is rejected under same rational as claim 3 described above.

14. As per claim 13, Finkelstein et al. teach claim 9 as described above. Claim 13 is rejected under same rational as claim 5 described above.

15. As per claim 16, Finkelstein et al. teach claim 9 as described above. Finkelstein et al. further teach

the second forward contract has a specified settlement date different from the settlement date of the first forward contract (see Fig. 3; Dealer Summary; where different settlement date for three repurchase agreement is illustrated); and

based at least in part on the request received from the participant, causing the display device to display to the participant the price information determined for the second forward contract (see Fig. 3; Dealer Summary, Rate; where rate for three forward contract is displayed).

Finkelstein et al. do not teach obtaining from the Repurchase desk a second cost of borrowing the financial instrument for a second particular period of time; based as

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least in part on the second cost obtained from the Repurchase desk, determining price information for at least a second forward contract.

Dwin teaches obtaining from the Repurchase desk a second cost of borrowing the financial instrument for a second particular period of time; based as least in part on the second cost obtained from the Repurchase desk, determining price information for at least a second forward contract (Dwin, Fig. 4, paragraph [0053 and [0055]]; where repo desk builds inventory of available bank loans and make available to short sellers and provides 3% fee on return of borrowed loan at the end of term).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include obtaining from a Repurchase desk a cost of borrowing the financial instrument for a particular period of time; based as least in part on the cost obtained from the Repurchase desk, determining price information for at least a first forward contract for the financial instrument of Finkelstein et al. because Dwin teaches including above features would enable to provide efficient form of financing by improving returns on capital and returns on equity (Dwin, paragraph [0004]).

16. As per claim 17, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, wherein

the specified settlement date of the first forward contract is greater than a next day (see Fig. 3; where settlement date of Term for repo are 1 week and two weeks).

17. As per claim 18, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, wherein

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the financial instrument comprises a fixed income security (see Fig. 3 and 4; where Agency and US Treasury are fixed income security).

18. As per claims 19 and 24, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method, comprising

the step of communicating to a trading system a request to sell the first forward contract at a first price (see Fig. 3; where dealer proposes to sell Agency and US Treasury forward contract (Repo);

Finkelstein et al. do not teach the request causes the trading system to: purchase, from the Repurchase desk, the financial instrument at a second price (see Fig. 3; where investors has option to purchase any one of contract after negotiation with the dealer); and sell the purchased financial instrument at the second price for immediate settlement; and wherein the request further causes the trading system, at the specified settlement date of the first forward contract, to: repurchase the financial instrument at a third price for immediate settlement; and sell, to the Repurchase desk, the repurchased financial instrument at the first price.

Dwin teaches the request causes the trading system to: purchase, from the Repurchase desk, the financial instrument at a second price (see Fig. 3; where investors has option to purchase any one of contract after negotiation with the dealer); and sell the purchased financial instrument at the second price for immediate settlement; and wherein the request further causes the trading system, at the specified settlement date of the first forward contract, to: repurchase the financial instrument at a

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third price for immediate settlement; and sell, to the Repurchase desk, the repurchased financial instrument at the first price (see Fig. 4; paragraph [0053-0055]).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include the trading system to: purchase, from the Repurchase desk, the financial instrument at a second price (see Fig. 3; where investors has option to purchase any one of contract after negotiation with the dealer); and sell the purchased financial instrument at the second price for immediate settlement; and wherein the request further causes the trading system, at the specified settlement date of the first forward contract, to: repurchase the financial instrument at a third price for immediate settlement; and sell, to the Repurchase desk, the repurchased financial instrument at the first price of Finkelstein et al. because Dwin teaches including above features would enable to provide efficient form of financing by improving returns on capital and returns on equity (Dwin, paragraph [0004]).

19. As per claim 20 and 25, Finkelstein et al. teach claim 1 as described above. Finkelstein et al. further teach the method repurchase agreement as described in claim 19 above. Dwin further teaches reverse repurchase agreement between repo desk, lender and short seller as shown Fig. 4 and paragraphs [0010] and [0050]).

20. As per claim 21, Finkelstein et al. teach claim 9 as described above. Claim 21 is rejected under same rational as claim10 described above.

21. As per claim 22, Finkelstein et al. teach claim 9 as described above. Claim 10 is rejected under same rational as claim 18 described above.

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22. As per claim 23, Finkelstein et al. teach claim 9 as described above. Finkelstein et al. further teach the method, wherein determining the price information for the first forward contract comprises determining the price information (see paragraph [0006])

Finkelstein et al. do not teach the cost obtained from the Repurchase desk and at least one of a bid price and an offer price for the financial instrument as obtained from a market for the financial instrument.

Dwin teaches the cost obtained from the Repurchase desk and at least one of a bid price and an offer price for the financial instrument as obtained from a market for the financial instrument (Dwin, Fig. 4 and 5A/5B).

Therefore, it would be obvious to one of ordinary skill in the art at the time the invention was made to include the cost obtained from the Repurchase desk and at least one of a bid price and an offer price for the financial instrument as obtained from a market for the financial instrument of Finkelstein et al. because Dwin teaches including above features would enable to provide repurchase agreement to hedge against portfolio risk (Dwin, paragraph [0047]).

Response to Arguments

23. New grounds of rejections of claims are necessitated by Applicant's amendment. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Conclusion

24. The prior art made of record and not relied upon is considered pertinent to applicant's disclosures. The following are pertinent to current invention, though not relied upon:

Aberman et al. (U.S. Pub No. 2006/0218069) teach financial instrument and methods.

Blauvelt et al. (U.S. Pub No. 2002/0091625) teach methods and systems for matching short trading positions with long trading positions and automatically generating repo and reverse purchase agreements.

Bushonville et al. (U.S. Pub No. 2001/0034687) teach service contracts and commodities market for trading service contracts.

Hecht (U.S. Pub No. 2004/0267657) teaches method for valuing forwards, futures and options on real estate.

Jain et al. (U.S. Patent No. 6,343,278) teach combined order limit for a group of related transactions in an automated dealing system..

Leistner (U.S. Pub No. 2005/0044026) teaches system and method for identification of quasi-fungible, goods and services, and financial instruments based thereon.

Mosler et al. (U.S. Patent No. 6,304,858) teach method, system, and computer product for trading interest swaps.

May (U.S. Patent No. 6,996,540) teaches system for switch auctions using risk portfolios of plurality of traders.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bijendra K. Shrestha whose telephone number is (571) 270-1374. The examiner can normally be reached on 7:00 AM-4:30 PM (Monday-Friday); 2nd Friday OFF.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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/Alexander Kalinowski/
Supervisory Patent Examiner, Art
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BKS/3691